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11 **UNITED STATES DISTRICT COURT**

12 **DISTRICT OF NEVADA**

13 JAMY BERRY on behalf of herself and all
14 others similarly situated,

15 Plaintiff,

16 vs.

17 ARIA RESORT & CASINO, LLC, and
18 DOES 1-50,

19 Defendants.

Case No.: 2:14-cv-01321-APG-VCF

**ORDER GRANTING PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

20 On January 27, 2015, Magistrate Judge Ferenbach issued his Report & Recommendation
21 (Dkt. #22) recommending that I (1) grant preliminary approval of the parties' settlement
22 agreement, (2) certify the proposed class and appoint plaintiff Jamye Berry as class
23 representative, (3) appoint Thierman Law Firm, P.C. as class counsel, (4) approve the proposed
24 notice plan and the form of the settlement notice, and order distribution of the notice as outlined
25 in the settlement agreement, and (5) set a final fairness hearing.

26 On February 3, 2015, the parties filed a Joint Notice (Dkt. #23) stating that neither party
27 objects to or opposes the Report & Recommendation and requesting that I enter their proposed
28 order granting preliminary approval of class action settlement. I have considered the Report &

1 Recommendation and the papers submitted in support of the application for approval of the
2 parties' settlement agreement.

3 I HEREBY ACCEPT THE REPORT AND RECOMMENDATION AND ORDER AS
4 FOLLOWS:

- 5 1. This Court grants preliminary approval of the settlement based upon the terms set
6 forth in the Joint Stipulation of Settlement and Release between Plaintiffs and
7 Defendant ("Stipulation of Settlement") filed herewith. The settlement appears to
8 be fair, adequate and reasonable to the Class.
- 9 2. The Settlement falls within the range of reasonableness and appears to be
10 presumptively valid, subject only to any objections that may be raised at the final
11 fairness hearing and final approval by this Court.
- 12 3. A final fairness hearing on the question of whether the proposed settlement,
13 attorneys' fees to Class Counsel, and the Class Representative Enhancement
14 Award should be finally approved as fair, reasonable and adequate as to the
15 members of the Class is scheduled in accordance with the schedule set forth
16 below.
- 17 4. This Court approves, as to form and content, the Notice of Pendency of Class
18 Action, Proposed Class Action Settlement, and Hearing Date for Court Approval
19 ("Notice of Pendency of Class Action"), in substantially the form attached to the
20 Stipulation of Settlement as Exhibit A, and the Exclusion Form, in substantially
21 the form attached thereto as Exhibit B. This Court approves the procedure for
22 Class Members to participate in, to opt out of and to object to, the settlement as set
23 forth in the Notice of Pendency of Class Action.
- 24 5. This Court directs the mailing of the Notice of Pendency of Class Action and the
25 Exclusion Form by first class mail to the Class Members in accordance with the
26 schedule set forth below. This Court finds the dates selected for the mailing and
27 distribution of the Notice and the Exclusion Form, as set forth in the schedule,
28 meet the requirements of due process and provide the best notice practicable under

1 the circumstances and shall constitute due and sufficient notice to all persons
 2 entitled thereto.

3 6. It is ordered that the Settlement Class (as defined in the Stipulation of Settlement)
 4 is preliminarily certified for settlement purposes only.

5 7. This Court confirms Plaintiff Jayme Berry as Class Representative and Thierman
 6 Buck LLP. as Class Counsel.

7 8. This Court confirms Class Action Administration, Inc. as CPT Group.

8 9. To facilitate administration of the settlement pending final approval, this Court
 10 hereby enjoins Plaintiffs and all Class Members from filing or prosecuting any
 11 claims, suits or administrative proceedings (including filing claims with the
 12 Nevada Office of the Labor Commissioner and the U.S. Department of Labor)
 13 regarding claims released by the settlement unless and until such Class Members
 14 have filed valid Requests for Exclusion with the Claims Administrator and the
 15 time for filing exclusions with the Claims Administrator has elapsed.

16 10. This Court orders the following **schedule** for further proceedings:

a.	Deadline for Defendant to Submit Class Member Information to Claims Administrator	<u>February 20, 2015</u> [10 calendar days after Order granting Preliminary Approval]
b.	Deadline for Claims Administrator to Mail the Notice and the Exclusion Form to Class Members	<u>February 25, 2015</u> [15 calendar days after Order granting Preliminary Approval]
5	Deadline for Class Members to Postmark Exclusion Forms	<u>March 27, 2015</u> [30 calendar days after mailing of the Notice and Exclusion Form to Class Members]
d.	Deadline for Receipt by Court and Counsel of any Objections to Settlement	<u>March 27, 2015</u> [30 calendar days after mailing of the Notice and Exclusion Form to Class Members]
e.	Deadline for Class Counsel to file Motion for Final Approval of Settlement, Attorneys' Fees, Costs, and Enhancement Award	<u>April 9, 2015</u> [15 calendar days before Final Approval Hearing]

1	f.	Deadline for Class Counsel to File Declaration from Claims Administrator of Due Diligence and Proof of Mailing	<u>April 9, 2015</u> [15 calendar days before Final Approval Hearing]
2	g.	Final Fairness Hearing and Final Approval	<u>April 24, 2015 at 9:00 A.M.</u>
3	h.	Deadline for Defendant to deposit the Net Settlement Amount into an escrow account set up by the Claims Administrator	5 days after the Final Fairness and Final Approval hearing
4	i.	Deadline for Claims Administrator to mail the Settlement Awards and the Enhancement Awards, and to wire transfer the Attorneys' Fees and Costs (if Settlement is Effective)	<u>May 15, 2015</u> [21 calendar days after Effective Date]
5	j.	Claims Administrator to File Proof of Payment of Settlement Awards, Enhancement Awards, Attorneys' Fees and Costs (if Settlement is Effective)	<u>July 23, 2015</u> [90 calendar days after Effective Date]
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14 **IT IS SO ORDERED.**

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16 Dated: February 10, 2015.

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 19 Honorable Andrew P. Gordon
 20 UNITED STATES DISTRICT JUDGE
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